

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RAHINAH IBRAHIM,

Plaintiff,

No. C 06-00545 WHA

v.

DEPARTMENT OF HOMELAND
SECURITY, et al.,

Defendants.

**ORDER RE EXPERT
DISCOVERY DISPUTES**

The parties have raised two discovery disputes over the expert report of plaintiff's expert Professor Jeffrey Kahn and the sources he relied on in preparing his report.

First, the government contends that an index linking paragraphs of Professor Kahn's report to large page ranges in Professor Kahn's book (which is incorporated into the report by reference) fails to identify what materials Professor Kahn considered in forming his opinions. This order agrees. As stated in the case management scheduling order and supplemental order, expert "reports must be complete and sufficiently detailed" and must disclose all "opinions, bases, reasons and other information considered by an expert" (Dkt. No. 400 at 2; Dkt. No. 359 at 6). At trial, the direct testimony of experts will be limited to the four corners of their reports. Plaintiff's expert will not be permitted to rely on pages of an exhibit incorporated into the report by reference that rely in turn on multiple underlying footnotes. Plaintiff may revise the expert report so that it includes the specific "facts or data considered" by Professor Kahn by

1 **NOVEMBER 1 AT NOON.** Thereafter, the government may conduct a one-day deposition of
2 Professor Kahn regarding these revisions.

3 *Second*, the parties dispute whether plaintiff should produce Professor Kahn's interview
4 notes for interviews that he considered in forming his expert opinions. The government should
5 have served subpoenas for the notes prior to the deposition of Professor Kahn. These documents
6 are not required to be automatically produced. In light of Professor Kahn's statement at his
7 deposition that he considered the interview notes in forming his opinions, however, the
8 government will be permitted to subpoena the notes for trial. If the government elects to serve
9 such subpoenas, the notes must be produced at least 24 hours prior to any further deposition
10 testimony by Professor Kahn. By **OCTOBER 31 AT NOON** plaintiff's counsel will advise the
11 government in writing whether they would accept such a subpoena for these records, and if not,
12 the burden shall be on the government to subpoena the expert directly.

13
14 **IT IS SO ORDERED.**

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16 Dated: October 24, 2013.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE